

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JOHN A. DOMBKOWSKI

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Appeal No. 1998-2037  
Application No. 08/642,850<sup>1</sup>

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ON BRIEF

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Before ABRAMS, McQUADE and GONZALES, Administrative Patent Judges

GONZALES, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the refusal of the examiner to allow claims 3 and 4, all of the claims remaining in the

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<sup>1</sup> Application for patent filed May 6, 1996.

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application, as amended subsequent to the final rejection.<sup>2</sup>

We REVERSE.

The appellant's invention relates to rotary cutting die plates and their associated rules or cutting blades used in a rotary cutting machine and, more particularly, to rule guards for insuring the alignment of adjacent confronting cutting dies when mounted on a cutting machine cylinder. A more complete understanding of the invention can be derived from a reading of exemplary claim 3, which appears as an attachment to the amended brief filed on October 15, 1997 (Paper No. 10).

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

de Lanauze	4,012,978	Mar. 22, 1977
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The following rejection is before us for review:<sup>3</sup>

claims 3 and 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by de Lanauze.

Rather than reiterate the conflicting viewpoints advanced

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<sup>2</sup> While the examiner has approved entry of the amendment filed September 15, 1997, to claims 3 and 4, we note that this amendment has not been clerically entered. We also note that the amendment was given the same paper number (Paper No. 8) as the brief filed September 15, 1997.

<sup>3</sup> The rejection of claims 3 and 4 under 35 U.S.C. § 112, second paragraph, made in the final rejection has been withdrawn (answer, page 3).

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by the examiner and the appellant regarding the above-noted rejection, we make reference to the answer, mailed January 23, 1998 (Paper No. 11) for the examiner's complete reasoning in support of the rejection, and to the brief, filed September 15, 1997 (Paper No. 8) for the appellant's arguments thereagainst.

#### OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art reference, and to the respective positions articulated by the appellant and the examiner. The determinations we have made and the reasons behind them are set forth below.

To support a rejection of a claim under 35 U.S.C. § 102(b), it must be shown that each element of the claim is found, either expressly described or under principles of inherency, in a single prior art reference. See Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

Independent claim 3 calls for the combination of (a) a

two-piece arcuate die plate having confrontable edges mounted in confrontation collinearly on a cylinder with segments of a rule mounted in similar collinearity on each of the confronting pieces of the die plate and (b) a pair of symmetrical line-up guides allochiral in configuration with each having a joint line coincident with the confrontable edge of a respective piece of the die plate.

Like appellant's, de Lanauze's disclosure is generally concerned with rotary die cutting machines having curved die boards or plates mounted on cylinders and provided with patterns of cutting rules. However, de Lanauze is particularly concerned with the interconnection of cutting rule segments rather than the interconnection of the curved die boards or plates. In this regard, de Lanauze illustrates in Figure 1 a single curved die board [1] which has been slotted with a pattern [2] of cutting rules [3] made up of various cutting rule segments. As shown in Figure 2, an individual rule segment taught by de Lanauze has side edges [20, 22] each of which has a notch [24, 26] and a lip [28, 30]. Figure 4 shows a plurality of rule

segments [10] interconnected by way of the mating of the lips [30] engaging the adjacent lip [28] and notch [24] of an adjacent segment in the rule.

de Lanauze does not teach a pair of symmetrical line-up guides allochiral in configuration with each having a joint line coincident with the confrontable edge of a respective piece of a two-piece arcuate die plate as required by claim 3. The examiner reads the "two-piece arcuate die plate" of claim 3 on adjacent, interconnected rule segments 10 of de Lanauze (answer, page 4). While it is true that the claims in a patent application are to be given their broadest reasonable interpretation consistent with the specification (In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from a pending application's specification will not be read into the claims during prosecution of a patent application (Sjolund v. Musland, 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)), it is also well settled that terms in a claim should be construed in a manner consistent with the specification and construed as those skilled in the art would

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construe them (see In re Bond, 910 F.2d 831, 833, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990), Specialty Composites v. Cabot Corp., 845 F.2d 981, 986, 6 USPQ2d 1601, 1604 (Fed. Cir. 1988) and In re Sneed, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983)). Here, the meaning given by the examiner to the term "two-piece arcuate die plate" is inconsistent with both the appellant's specification and the reference, each of which describes the die plate or board as the element on which the cutting rule is mounted. The rule segments [10] disclosed by de Lanauze are used to form a cutting rule which, in turn, is mounted on a die plate or board. We can think of no circumstances under which the artisan, consistent with the appellant's specification, would construe two interconnected rule segments [10] as disclosed by de Lanauze to correspond to the claimed "two-piece arcuate die plate."

In view of the above, we agree with the appellant (brief, pages 8-11) that de Lanauze fails to show the combination of

(a)

a two-piece arcuate die plate having confrontable edges mounted

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in confrontation collinearly on a cylinder and (b) a pair of symmetrical line-up guides having a joint line coincident with the confrontable edge of a respective piece of the die plate.

Since all the limitations of independent claim 3 are not present in de Lanauze, the decision of the examiner to reject claim 3 and dependent claim 4 under 35 U.S.C. § 102(b) is not sustained.

The decision of the examiner is reversed.

REVERSED

NEAL E. ABRAMS	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
JOHN P. McQUADE	)	APPEALS AND
Administrative Patent Judge	)	INTERFERENCES
	)	
	)	
JOHN F. GONZALES	)	
Administrative Patent Judge	)	

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